

107TH CONGRESS
2D SESSION

S. 2995

To improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2002

Mr. HOLLINGS (for himself and Mr. CLELAND) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tobacco-Dependent Communities Assistance Act of
6 2002”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TOBACCO PRODUCTION ADJUSTMENT

Subtitle A—Production Poundage Permits for Flue-Cured and Burley Tobacco

Sec. 101. Production poundage permits for Flue-cured and Burley tobacco.

Subtitle B—Tobacco Equity Reduction Program

Sec. 111. Tobacco equity reduction program.

Sec. 112. Funding.

Sec. 113. Sense of Congress on investment of tobacco equity payments in investment retirement accounts.

Subtitle C—Termination of Marketing Quotas for Flue-Cured and Burley Tobacco

Sec. 121. Definition of covered tobacco.

Sec. 122. National marketing quota.

Sec. 123. Apportionment of national marketing quota.

Sec. 124. Burley tobacco acreage allotments.

Sec. 125. Lease and transfer of acreage allotments.

Sec. 126. Mandatory sale of Flue-cured tobacco acreage allotments and marketing quotas.

Sec. 127. Mandatory sale of Burley tobacco acreage allotments and marketing quotas.

Sec. 128. Acreage—poundage quotas.

Sec. 129. Farm poundage quotas for certain kinds of tobacco.

Subtitle D—Administration

Sec. 141. Purchase intentions by cigarette manufacturers.

Sec. 142. Purchase requirements and penalties.

Sec. 143. Tobacco production and marketing information.

Sec. 144. Publication of quotas.

Sec. 145. General adjustment of quotas.

Sec. 146. Eminent domain.

Sec. 147. Reconstitution of farms.

Sec. 148. Voluntary relinquishment of allotments.

Sec. 149. Prohibition on promotion of manufactured tobacco products.

TITLE II—TOBACCO PRICE SUPPORT

Sec. 201. Tobacco price support.

Sec. 202. Conforming amendments.

TITLE III—TOBACCO STANDARDS AND INSPECTIONS

Sec. 301. Tobacco standards.

Sec. 302. Tobacco inspections.

TITLE IV—FARMER AND WORKER TRANSITION ASSISTANCE

Sec. 401. Tobacco worker transition program.

Sec. 402. Farmer opportunity grants.

TITLE V—TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS

Sec. 501. Tobacco community economic development grants.

TITLE VI—IMMUNITY

Sec. 601. General immunity for tobacco producers and warehousemen.

TITLE VII—ADMINISTRATION

Sec. 701. Marketing years.

1 TITLE I—TOBACCO PRODUCTION 2 ADJUSTMENT

3 Subtitle A—Production Poundage 4 Permits for Flue-Cured and 5 Burley Tobacco

6 SEC. 101. PRODUCTION POUNDAGE PERMITS FOR FLUE- 7 CURED AND BURLEY TOBACCO.

8 Title III of the Agricultural Adjustment Act of 1938
9 is amended by inserting after subtitle D (7 U.S.C. 1379a
10 et seq.) the following:

11 “Subtitle E—Tobacco-Dependent 12 Communities Assistance

13 “SEC. 380a. DEFINITIONS.

14 “In this subtitle:

15 “(1) ACTIVE GROWER.—

16 “(A) IN GENERAL.—The term ‘active
17 grower’ means a person that (as determined by
18 a county committee)—

19 “(i) is at risk for a crop;

20 “(ii) provides a significant contribu-
21 tion of capital, land, or equipment (within

1 the meaning of sections 1001 and 1001A
2 of the Food Security Act of 1985 (7
3 U.S.C. 1308, 1308–1), alone or in com-
4 bination with other persons;

5 “(iii) provides personal labor or active
6 personal management (within the meaning
7 of those sections), alone or in combination
8 with other persons; and

9 “(iv) shared in the risk of producing
10 tobacco during the 2001 or 2002 crop
11 year.

12 “(B) PROOF.—For purposes of subpara-
13 graph (A), a determination of whether a grower
14 is an active grower shall be based on (as appli-
15 cable, as determined by the county com-
16 mittee)—

17 “(i) invoices (including evidence of
18 such payments as bank statements and
19 canceled checks) for labor, pesticides, other
20 chemicals, fertilizer, equipment, fuel, re-
21 pairs, and tobacco sales bills;

22 “(ii) documentation relating to oper-
23 ating loans or other sources of operating
24 capital and related management decisions;
25 or

1 “(iii) other proof acceptable to the
2 county committee that the grower is at
3 risk for the crop.

4 “(2) BASE QUOTA LEVEL.—The term ‘base
5 quota level’ means the average quantity of basic
6 marketing quota for Flue-cured or Burley tobacco
7 established for a farm for the 1997 through 1999
8 marketing years.

9 “(3) NEW ACTIVE GROWER.—

10 “(A) IN GENERAL.—The term ‘new active
11 grower’ means—

12 “(i) an individual that—

13 “(I) has certified to the Secretary
14 the intention of the grower to become
15 an active grower (without regard to
16 paragraph (1)(A)(iv)); and

17 “(II) has not had an interest in
18 the production of tobacco during the
19 immediately preceding 5 years; and

20 “(ii) an institution of higher education
21 (as defined in section 101(a) of the Higher
22 Education Act of 1965 (20 U.S.C.
23 1001(a))) that produces tobacco that is
24 used for research purposes.

1 “(B) EXCLUSION.—The term ‘new active
2 grower’ does not include an active grower that
3 has forfeited or transferred a production pound-
4 age permit under section 380e or 380d(b), re-
5 spectively.

6 “(4) PROCLAMATION DATE.—The term ‘procla-
7 mation date’ means—

8 “(A) in the case of Flue-cured tobacco, De-
9 cember 15 of the calendar year preceding the
10 marketing year for any of the 2004 and subse-
11 quent crops; and

12 “(B) in the case of Burley tobacco, Feb-
13 ruary 1 of the calendar year preceding the mar-
14 keting year for any of the 2002 and subsequent
15 crops.

16 “(5) QUOTA.—The term ‘quota’ means a farm
17 marketing quota for tobacco established under part
18 I of subtitle B for the marketing year for any of the
19 2002 or previous crops.

20 “(6) QUOTA OWNER.—The term ‘quota owner’
21 means the owner of a farm (as of July 1, 2002) for
22 which a quota was established for the 2002 crop
23 year.

24 **“SEC. 380b. NATIONAL PRODUCTION POUNDAGE PERMITS.**

25 “(a) PROCLAMATION.—

1 “(1) IN GENERAL.—Subject to subsections (c)
2 and (d), not later than the proclamation date for a
3 marketing year for any of the 2004 and subsequent
4 crops, the Secretary shall proclaim a production
5 poundage permit for Flue-cured and Burley tobacco
6 for each of the next 3 succeeding marketing years if
7 the Secretary determines, with respect to the kind of
8 tobacco, that—

9 “(A) a production poundage permit has
10 not previously been proclaimed for the kind of
11 tobacco as of the beginning of the marketing
12 year;

13 “(B) the marketing year is the last year of
14 3 consecutive years for which production pound-
15 age permits or marketing quotas previously pro-
16 claimed will be in effect; or

17 “(C) amendments have been made in pro-
18 visions establishing farm acreage allotments
19 that will cause material revision of the allot-
20 ments before the end of the period for which
21 permits or quotas are in effect.

22 “(2) PRODUCTION POUNDAGE PERMITS FOR
23 SECOND AND THIRD MARKETING YEARS.—The Sec-
24 retary shall determine and announce the production
25 poundage permits for the second and third mar-

1 keting years of any 3-year period for which produc-
2 tion poundage permits are in effect with respect to
3 Flue-cured and Burley tobacco on or before the
4 proclamation date immediately preceding the begin-
5 ning of the marketing year to which the permits
6 apply.

7 “(3) NOTICE.—The Secretary shall provide no-
8 tice of the production poundage permits that will be
9 in effect for the first marketing year covered by the
10 referendum, to the maximum extent practicable, by
11 mailing a notice to each active grower prior to the
12 holding of any referendum.

13 “(b) QUANTITY.—

14 “(1) IN GENERAL.—As part of any national
15 production poundage permit for Flue-cured or Bur-
16 ley proclaimed for a marketing year under sub-
17 section (a), the Secretary shall determine and an-
18 nounce the quantity of the kind of tobacco that may
19 be produced or marketed under the production
20 poundage permit.

21 “(2) LEVEL.—Subject to paragraphs (3)
22 through (6), the quantity of a national production
23 poundage permit for Flue-cured or Burley pro-
24 claimed for a marketing year under subsection (a)
25 shall equal the quantity of the kind of tobacco pro-

1 duced in the United States that the Secretary esti-
2 mates will be used during the marketing year in the
3 United States and will be exported during the mar-
4 keting year, as adjusted by the Secretary for the
5 purpose of maintaining an adequate supply or for ef-
6 fecting an orderly reduction of supplies to the re-
7 serve supply level.

8 “(3) RESERVE.—

9 “(A) IN GENERAL.—For each marketing
10 year for which production poundage permits are
11 in effect under this section, the Secretary may
12 establish a reserve from the national production
13 poundage permit in a quantity equivalent to 3
14 percent of the national production poundage
15 permit to be available for—

16 “(i) making corrections and adjusting
17 inequities in active grower production
18 poundage permits; and

19 “(ii) allotting production poundage
20 permits to new active growers.

21 “(B) NEW ACTIVE GROWERS.—The Sec-
22 retary shall use not less than $\frac{2}{3}$ of the reserve
23 for new active growers.

24 “(4) LIMITATIONS.—For the marketing year
25 for each of the 2004 and subsequent crops of Flue-

1 cured tobacco and Burley tobacco, the quantity of
2 the national production poundage permit for the
3 kind of tobacco for a marketing year shall be equal
4 to the quantity of the kind of tobacco, as determined
5 by the Secretary, that is not more than 103 percent
6 nor less than 97 percent of the total of—

7 “(A) the aggregate of the quantities of the
8 kind of tobacco that domestic manufacturers of
9 cigarettes estimate the manufacturers intend to
10 purchase on the United States auction or non-
11 auction markets or from active growers during
12 the marketing year, as compiled and determined
13 under section 320A;

14 “(B) the average annual quantity of the
15 kind of tobacco exported from the United
16 States during the 3 marketing years imme-
17 diately preceding the marketing year for which
18 the determination is being made; and

19 “(C) the quantity, if any, of kind of to-
20 bacco that the Secretary determines is nec-
21 essary to increase or decrease the inventory of
22 the grower-owned cooperative marketing asso-
23 ciation that has entered into a loan agreement
24 with the Commodity Credit Corporation to
25 make price support available to producers of

1 the kind of tobacco to establish or maintain the
2 inventory at the reserve stock level for the kind
3 of tobacco.

4 “(5) INCREASE.—Not later than the following
5 March 1, the Secretary may increase the quantity of
6 the production poundage permit announced under
7 paragraph (1) by not more than 20 percent if the
8 Secretary determines that the increase is necessary
9 in order to meet market demands or to avoid undue
10 restrictions of marketings in adjusting the total sup-
11 ply to the reserve supply level.

12 “(c) REFERENDUM.—

13 “(1) IN GENERAL.—Not later than 30 days
14 after the proclamation of production poundage per-
15 mits under subsection (a), the Secretary shall con-
16 duct a referendum among active growers of Flue-
17 cured and Burley tobacco to determine whether the
18 active growers of such kind of tobacco are in favor
19 of or opposed to the permits for the next 3 suc-
20 ceeding marketing years.

21 “(2) DISAPPROVAL.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), if more than $\frac{2}{3}$ of the active
24 growers voting in the referendum oppose the
25 production poundage permits—

1 “(i) the Secretary shall proclaim the
2 results; and

3 “(ii) the proclaimed production
4 poundage permits shall not be in effect.

5 “(B) SUBSEQUENT PROCLAMATIONS AND
6 REFERENDA.—The disapproval of production
7 poundage permits in a referendum conducted
8 under this subsection shall not affect or limit
9 the subsequent proclamation and submission to
10 a referendum of a production poundage permit
11 in accordance with this section.

12 “(d) PERMITS OR QUOTAS DISAPPROVED IN SUCCES-
13 SIVE REFERENDA.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), if active growers of a kind of tobacco
16 have disapproved production poundage permits in
17 referenda held in 3 successive years under sub-
18 section (c), the Secretary shall not proclaim a pro-
19 duction poundage permit for any marketing year
20 within the 3-year period for which production pound-
21 age permits previously proclaimed were disapproved
22 by active growers in a referendum.

23 “(2) PETITION.—Paragraph (1) shall not apply
24 if, prior to November 10 of the calendar year pre-
25 ceding the marketing year, at least 25 percent of the

1 farmers engaged in the production of the crop of to-
 2 bacco harvested in the calendar year in which the
 3 marketing year begins petition the Secretary for a
 4 referendum, in accordance with such regulations as
 5 the Secretary may promulgate, to proclaim a produc-
 6 tion poundage permit for each of the next 3 suc-
 7 ceeding marketing years.

8 **“SEC. 380c. PRODUCTION POUNDAGE PERMITS FOR INDIVIDUAL ACTIVE GROWERS.**
 9

10 “(a) FIRST MARKETING YEAR.—For the first mar-
 11 keting year for which production poundage permits are in
 12 effect for Flue-cured or Burley tobacco under section
 13 380b, the Secretary shall allocate the national production
 14 poundage permit for the marketing year (less the national
 15 reserve) among active growers of the kind of tobacco, on
 16 a pro rata basis that reflects the quantity of the kind of
 17 tobacco active growers were eligible to market during the
 18 marketing year for the 2002 crop of the kind of tobacco
 19 under an allotment or quota established under part I of
 20 subtitle B.

21 “(b) SUCCEEDING MARKETING YEARS.—

22 “(1) IN GENERAL.—For each marketing year
 23 after the first marketing year for which production
 24 poundage permits are in effect for Flue-cured or
 25 Burley tobacco under section 380b, the quantity of

1 a production poundage permit of an active grower
2 for the marketing year shall be the product obtained
3 by multiplying—

4 “(A) the quantity of the kind of tobacco al-
5 lowed to be produced by the active grower
6 under the most recent marketing year produc-
7 tion poundage permit issued to the active grow-
8 er; by

9 “(B) a national factor obtained by divid-
10 ing—

11 “(i) the national production poundage
12 permit determined under section 380b for
13 the kind of tobacco (less the national re-
14 serve); by

15 “(ii) the sum of production poundage
16 permits for the kind of tobacco for the
17 most recent year for all active growers for
18 which production poundage permits will be
19 determined for the applicable marketing
20 year.

21 “(2) EXCESS MARKETINGS.—

22 “(A) IN GENERAL.—The quantity of a pro-
23 duction poundage permit allotted to an active
24 grower for a marketing year under this sub-
25 section shall be reduced by the number of

pounds by which marketing for the active grower during the immediately preceding year exceeded the production poundage permit of the active grower (after adjustments).

“(B) SUBSEQUENT MARKETING YEARS.—If as a result of excess marketings in the most recent year the quantity of the kind of tobacco allowed to be produced by an active grower under a production poundage permit for the marketing year is reduced to 0 pounds without achieving the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

“(3) NEW ACTIVE GROWERS.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the quantity of a production poundage permit for a new active grower applicant under this subsection shall be the number of pounds determined by the county committee, with approval of the State committee, to be fair and reasonable for the grower on the basis of—

“(i) the past experience of the grower with respect to the kind of tobacco involved;

1 “(ii) the land, labor, and equipment
2 available for the production of the kind of
3 tobacco, excluding any income requirement;

4 “(iii) crop rotation practices; and

5 “(iv) the soil and other physical fac-
6 tors affecting the production of the to-
7 bacco.

8 “(B) MINIMUM QUANTITY.—The initial
9 permit for any new active grower under this
10 paragraph shall not be less than—

11 “(i) 8,000 pounds of Flue-cured to-
12 bacco; or

13 “(ii) 4,000 pounds of Burley tobacco.

14 “(C) NATIONAL RESERVE.—The number
15 of pounds allocated to all new active growers
16 under this paragraph shall not exceed that por-
17 tion of the national reserve that is provided by
18 the Secretary for establishing production
19 poundage permits for new active growers.

20 **“SEC. 380d. SALE, LEASE, OR TRANSFER OF PERMITS.**

21 “(a) IN GENERAL.—Except as provided in subsection
22 (b), no permit issued under this subtitle may be sold,
23 leased, rented (including share or case rentals), or trans-
24 ferred to any other person.

1 “(b) DISCONTINUATION OF PRODUCTION OF TO-
2 BACCO.—

3 “(1) INDIVIDUALS.—In the case of an active
4 grower or a quota grower who dies or determines not
5 to continue producing Flue-cured or Burley to-
6 bacco—

7 “(A) the permit of the active grower or
8 quota grower may be transferred to the spouse,
9 surviving spouse, or direct legal descendants (as
10 appropriate) of the active grower, in the same
11 proportion as the active grower or quota grower
12 held the interest; and

13 “(B) the spouse or descendants shall re-
14 ceive all rights and be subject to all obligations
15 as the original active grower.

16 “(2) PARTNERSHIPS.—In the case of a partner-
17 ship that includes an active grower described in
18 paragraph (1)—

19 “(A) the spouse, surviving spouse, or direct
20 descendants (as appropriate) of an active grow-
21 er may receive a permit in the same proportion
22 as an active grower who dies or who determines
23 not to continue producing Flue-cured or Burley
24 tobacco held the interest; and

1 “(B) any portion of the permit attributable
 2 to the active grower that has no spouse, sur-
 3 viving spouse, or direct descendant shall be for-
 4 feited and made available for reallocation under
 5 section 380e(d).

6 “(3) CORPORATIONS.—

7 “(A) IN GENERAL.—In the case of a cor-
 8 poration, any permit shall continue to be in ef-
 9 fect for such period as the corporation con-
 10 tinues to function as an active grower.

11 “(B) TRANSFERS.—

12 “(i) IN GENERAL.—Except as pro-
 13 vided in clause (ii), no permit held by a
 14 corporation may be transferred to any indi-
 15 vidual or other entity, including—

16 “(I) any individual or entity that
 17 purchases the corporation; or

18 “(II) the successor or assign of a
 19 corporation.

20 “(ii) FAMILY MEMBERS.—Any spouse,
 21 surviving spouse, or direct descendant of a
 22 stockholder of the corporation may receive
 23 such a permit in the same proportion as is
 24 attributable to the stockholder when the
 25 stockholder sells or otherwise transfers to

1 any such spouse or descendant the stock-
2 holder's ownership interest in the corpora-
3 tion.

4 “(C) REALLOCATION.—Except as provided
5 in subparagraph (B)(ii), if the corporation
6 ceases to function as an active grower, any per-
7 mit of the corporation shall be reallocated in ac-
8 cordance with section 380e(d).

9 **“SEC. 380e. REDUCTIONS OR FORFEITURES.**

10 “(a) DEFINITION OF FULLY USED.—In this section,
11 the term ‘fully used’ means that at least 75 percent of
12 the quantity of Flue-cured or Burley tobacco eligible to
13 be marketed under a production poundage permit, for at
14 least 2 consecutive years, is produced by an active grower
15 and marketed or considered by the county committee to
16 be marketed, with no credit provided in any future year
17 for the failure to market the quantity specified in the per-
18 mit within any crop year, unless the failure was due to
19 damaging weather, disease, or a related condition (as de-
20 termined by the Secretary).

21 “(b) PERMITS THAT ARE NOT FULLY USED.—Any
22 permit that is not fully used under this section shall be
23 subject to permanent reduction or forfeiture.

24 “(c) COUNTY COMMITTEES.—

1 “(1) IN GENERAL.—The relevant county com-
 2 mittee shall make determinations regarding reduc-
 3 tions or forfeitures under subsection (b) according to
 4 criteria established by the Secretary.

5 “(2) CRITERIA.—The criteria shall include con-
 6 sideration of whether conditions beyond the control
 7 of the active grower (including disease conditions)
 8 prevented the permit from being fully used.

9 “(d) REALLOCATION.—Any permit that is reduced or
 10 forfeited may be reallocated by the Secretary to other ac-
 11 tive growers in the same county.

12 **“SEC. 380f. AUCTION WAREHOUSES.**

13 “(a) IN GENERAL.—The Secretary shall require that
 14 any active grower with a production poundage permit
 15 under this subtitle greater than zero shall indicate on such
 16 form as the Secretary shall require—

17 “(1) the number of pounds of Flue-cured and
 18 Burley tobacco the grower intends to market by auc-
 19 tion at 1 or more warehouses designated by the ac-
 20 tive grower; and

21 “(2) the number of pounds of Flue-cured and
 22 Burley tobacco the producer intends to market by
 23 non-auction.

24 “(b) PRICE SUPPORT.—Any active grower that fails
 25 to file a warehouse designation under this section shall

1 not be eligible to receive price support under the Agricul-
 2 tural Act of 1949 (7 U.S.C. 1421 et seq.) for the tobacco
 3 marketed under the production poundage permit of the
 4 grower.

5 **“SEC. 380g. REDUCTION OF PRODUCTION POUNDAGE PER-**
 6 **MITS.**

7 “(a) IN GENERAL.—Subject to subsection (b), when
 8 a production poundage permit is in effect for Flue-cured
 9 or Burley tobacco under this subtitle, the production
 10 poundage permit of an active grower next established for
 11 the grower shall be reduced by the quantity of the tobacco
 12 produced by the grower—

13 “(1) that is marketed as having been produced
 14 under a different permit;

15 “(2) for which proof of disposition is not fur-
 16 nished as required by the Secretary;

17 “(3) as to which any grower files, or aids or ac-
 18 quiesces in the filing of, any false report with re-
 19 spect to the production or marketings of tobacco;
 20 and

21 “(4) as to which any grower participated in any
 22 scheme or device to circumvent any requirement of
 23 the program.

24 “(b) LACK OF CAUSALITY.—If the Secretary, acting
 25 through the local county committee, finds that neither the

1 grower, nor any person under the control or supervision
 2 of the grower, caused, aided, or acquiesced in any action
 3 described in subsection (a), the next established produc-
 4 tion poundage permit shall not be reduced under this sub-
 5 section.

6 “(c) MULTIPLE TOBACCO CROPS.—If in any calendar
 7 year more than 1 crop of tobacco is grown from the same
 8 tobacco plants, or different tobacco plants, and is har-
 9 vested for marketing from the same acreage of a farm
 10 under this subtitle, the Secretary shall reduce the subse-
 11 quent production poundage permit for the active grower
 12 by a quantity equivalent to the poundage of the additional
 13 crop of tobacco.

14 “(d) EMINENT DOMAIN.—In establishing production
 15 poundage permits for active growers displaced by acquisi-
 16 tion of land by any agency, as provided in section 378,
 17 only a decrease in the production poundage permits as
 18 provided in this section shall be made on account of mar-
 19 ketings in excess of the production poundage permit of
 20 a grower.

21 “(e) ADDITIONAL REDUCTIONS.—The reductions re-
 22 quired under this section shall be in addition to any other
 23 adjustments made pursuant to this subtitle.

24 **“SEC. 380h. PENALTIES.**

25 “(a) IN GENERAL.—

1 “(1) PENALTIES.—Except as provided in sec-
 2 tion 380b(b), when production poundage permits
 3 under this subtitle are in effect, section 314 shall
 4 apply to this subtitle.

5 “(2) ADMINISTRATION.—For the purpose of
 6 paragraph (1), the marketing of tobacco in excess of
 7 a quantity permitted under a production poundage
 8 permit under this subtitle shall be considered the
 9 same as the marketing of tobacco in excess of a
 10 marketing quota.

11 “(b) TRIGGERING QUANTITY.—

12 “(1) IN GENERAL.—No penalty on excess to-
 13 bacco shall be due or collected until 103 percent of
 14 the production poundage permit has been marketed.

15 “(2) MARKETING IN EXCESS OF TRIGGERING
 16 QUANTITY.—In the case of each pound of tobacco
 17 marketed in excess of the percentage described in
 18 paragraph (1), the full penalty rate shall be due,
 19 payable, and collected at the time of marketing on
 20 each pound of excess tobacco marketed.

21 “(3) REDUCTION IN SUBSEQUENT PERMITS.—
 22 Any tobacco marketed in excess of 100 percent of
 23 the production poundage permit shall require a re-
 24 duction in subsequent permits in accordance with
 25 section 380g.

1 “(4) MARKETING OF CERTAIN GRADES.—If the
2 Secretary determines it is desirable to encourage the
3 marketing of grade N₂ tobacco or any grade of to-
4 bacco not eligible for price support in order to meet
5 the normal demands of export and domestic mar-
6 kets, the Secretary may authorize the marketing of
7 the tobacco in a marketing year under this subtitle
8 without the payment of penalty or deduction from
9 subsequent quotas in a quantity that does not exceed
10 5 percent of the production poundage permit for the
11 active grower.

12 “(c) FALSE INFORMATION.—Notwithstanding the
13 third sentence of section 314(a), when production pound-
14 age permits established under this subtitle are in effect,
15 if any active grower falsely identifies or fails to account
16 for the disposition of any tobacco or participates in any
17 scheme or device to circumvent any requirement of the
18 program—

19 “(1) in lieu of assessing and collecting penalties
20 based on actual marketings of excess tobacco, the
21 Secretary may elect to assess a penalty computed by
22 multiplying—

23 “(A) the full penalty rate; by

24 “(B) a quantity of tobacco equal to the
25 greater of—

1 “(i) 25 percent of the production
2 poundage permit, plus the farm yield of
3 the number of acres harvested in excess of
4 the production poundage permit; or

5 “(ii) 100 percent of the production
6 poundage permit (after adjustments); and

7 “(2) the penalty shall be paid and remitted by
8 the active grower.

9 “(d) FALSE IDENTIFICATION OF PERMITS.—Not-
10 withstanding any other provision of this section, if an ac-
11 tive grower falsely identifies tobacco as having been pro-
12 duced or marketed under a production poundage permit
13 other than the production poundage permit issued for the
14 active grower, the quantity of tobacco falsely identified
15 shall be considered for purposes of establishing future pro-
16 duction poundage permits as having been produced on the
17 production poundage permits of all active growers involved
18 in the false identification.

19 **“SEC. 380i. REPORTS.**

20 “(a) IN GENERAL.—Each active grower for whom a
21 production poundage permit is established under this sub-
22 title shall annually file with the Secretary a report of the
23 acreage planted to Flue-cured and Burley tobacco.

24 “(b) RECORDKEEPING SYSTEM.—Not later than 180
25 days after the date of enactment of this subtitle, the Sec-

1 retary shall establish a computerized recordkeeping system
 2 that contains all information reported under subsection
 3 (a) and related records, as determined by the Secretary.”.

4 **Subtitle B—Tobacco Equity** 5 **Reduction Program**

6 **SEC. 111. TOBACCO EQUITY REDUCTION PROGRAM.**

7 Subtitle E of title III of the Agricultural Adjustment
 8 Act of 1938 (as added by section 101) is amended by add-
 9 ing at the end the following:

10 **“SEC. 380j. TOBACCO EQUITY REDUCTION PROGRAM.**

11 “(a) PROGRAM.—The Secretary, acting through the
 12 Commodity Credit Corporation, shall establish a tobacco
 13 equity reduction program that is applicable to quota own-
 14 ers and growers of Flue-cured and Burley quota tobacco
 15 with respect to each kind of tobacco.

16 “(b) ELIGIBILITY.—

17 “(1) IN GENERAL.—Effective beginning with
 18 the 2004 crop year, any quota owner or grower of
 19 record of Flue-cured or Burley tobacco as of July 1,
 20 2002, shall be eligible to receive compensation under
 21 the program.

22 “(2) OWNERS.—Each quota owner that owned
 23 a tobacco quota during the 2002 crop year shall be
 24 eligible to receive compensation under the program.

1 “(3) PROPORTIONAL PAYMENT.—Any payment
2 under this section shall be made only in an amount
3 that is proportional to the ownership or interest held
4 by the recipient.

5 “(4) APPLICATION.—To be eligible to receive
6 compensation under this section, any quota owner or
7 grower shall prepare and submit to the Secretary an
8 application for compensation in such form and at
9 such time as the Secretary shall prescribe.

10 “(5) CRITERIA.—The application shall dem-
11 onstrate to the satisfaction of the Secretary that the
12 applicant meets the requirements of this section.

13 “(c) PAYMENTS.—

14 “(1) QUOTA OWNERS.—The amount of a pay-
15 ment made under the program to a quota owner
16 shall be equal to the amount obtained by multi-
17 plying—

18 “(A) the base quota level for the quota
19 owner; by

20 “(B) \$8 per pound.

21 “(2) GROWERS.—The amount of a payment
22 made under the program to a grower on a farm shall
23 be equal to the amount obtained by multiplying—

24 “(A) the grower’s share of the base quota
25 level for the farm; by

1 “(B) \$4 per pound.

2 “(3) DEATH OF QUOTA LESSEE OR QUOTA TEN-
 3 ANT.—If a quota lessee or quota tenant who is enti-
 4 tled to receive payments under this section dies and
 5 is survived by a spouse or 1 or more dependents, the
 6 right to receive the payments shall transfer to the
 7 surviving spouse or, if there is no surviving spouse,
 8 to the immediate family members in equal shares.

9 “(d) ADMINISTRATION.—

10 “(1) AGREEMENT.—A payment to a quota
 11 owner or grower under the program shall be made
 12 through the execution of an irrevocable agreement
 13 between the Secretary and the owner or grower.

14 “(2) PAYMENTS.—

15 “(A) IN GENERAL.—Except as provided in
 16 subparagraph (B) and paragraph (3), an agree-
 17 ment shall provide that compensation under the
 18 program shall be made to the quota owner or
 19 grower over a period of 5 years commencing
 20 with the date on which the agreement is signed.

21 “(B) SMALL QUOTA OWNERS.—Any quota
 22 owner that has a base quota level of 1,000
 23 pounds or less may receive the total compensa-
 24 tion for which the owner is eligible under the

1 program during the first year after the date on
2 which the agreement is signed.

3 “(3) GROWERS THAT DISCONTINUE PRODUC-
4 TION.—

5 “(A) IN GENERAL.—If any active grower
6 agrees to discontinue production of tobacco and
7 has carryover tobacco, the grower shall (as de-
8 termined by the grower)—

9 “(i) destroy the tobacco under the su-
10 pervision of the Secretary and receive the
11 full amount of the payment to which the
12 grower is entitled under this section; or

13 “(ii) receive the total amount of the
14 payments for which the active grower is el-
15 igible under this section, as soon as prac-
16 ticable after the date the active grower cer-
17 tifies to the Secretary that the active grow-
18 er is discontinuing production of tobacco,
19 reduced by an amount equal to the amount
20 obtained by multiplying—

21 “(I) the quantity of carryover to-
22 bacco; by

23 “(II) the national price-support
24 level for the kind of tobacco for the
25 year produced.

1 “(B) TEMPORARY PERMIT.—Any grower
 2 that receives compensation under subparagraph
 3 (A)(ii) shall receive a temporary permit author-
 4 izing the grower to market the carryover to-
 5 bacco in the subsequent marketing year.

6 “(C) REDUCTION OF SUBSEQUENT QUAN-
 7 TITIES.—Any poundage sold under the tem-
 8 porary permit shall be deducted from the quan-
 9 tity of production poundage permits issued for
 10 growers in the United States for the subsequent
 11 marketing year.

12 “(e) PAYMENT LIMITATION.—Notwithstanding any
 13 other provision of law, payments made under this section
 14 shall not be subject to any payment limitation otherwise
 15 provided by law.”.

16 **SEC. 112. FUNDING.**

17 Subtitle H of title III of the Agricultural Adjustment
 18 Act of 1938 (as added by section 111) is amended by add-
 19 ing at the end the following:

20 **“SEC. 380k. FUNDING.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) MARKET SHARE.—The term ‘market
 23 share’ means the ratio of—

24 “(A) the tax liability of a tobacco product
 25 manufacturer or tobacco product importer for a

1 calendar year under section 5703 of the Inter-
2 nal Revenue Code of 1986; to

3 “(B) the tax liability of all tobacco product
4 manufacturers or tobacco product importers for
5 the calendar year under section 5703 of the In-
6 ternal Revenue Code of 1986.

7 “(2) TOBACCO PRODUCT IMPORTER.—The term
8 ‘tobacco product importer’ has the meaning given
9 the term ‘importer’ in section 5702 of the Internal
10 Revenue Code of 1986.

11 “(3) TOBACCO PRODUCT MANUFACTURER.—

12 “(A) IN GENERAL.—The term ‘tobacco
13 product manufacturer’ has the meaning given
14 the term “manufacturer of tobacco products” in
15 section 5702 of the Internal Revenue Code of
16 1986.

17 “(B) EXCLUSION.—The term ‘tobacco
18 product manufacturer’ does not include a per-
19 son that manufactures cigars or pipe tobacco.

20 “(b) DETERMINATIONS.—Not later than September
21 30 of each fiscal year, the Secretary shall—

22 “(1) determine—

23 “(A) the market share of each tobacco
24 product manufacturer or tobacco product im-
25 porter during the most recent calendar year;

1 “(B) the total amount of assessments pay-
 2 able for the subsequent fiscal year under sub-
 3 section (c); and

4 “(C) the amount of an assessment payable
 5 by the tobacco product manufacturer or tobacco
 6 product importer for the fiscal year under sub-
 7 section (d); and

8 “(2) notify each tobacco product manufacturer
 9 and tobacco product importer of the determinations
 10 made under paragraph (1) with respect to the manu-
 11 facturer or importer.

12 “(c) TOTAL AMOUNT OF ASSESSMENTS.—

13 “(1) IN GENERAL.—The total amount of as-
 14 sessments payable by all tobacco product manufac-
 15 turers and tobacco product importers to the Sec-
 16 retary and the Commodity Credit Corporation for a
 17 fiscal year shall be equal to—

18 “(A) the amount of the contribution for
 19 the fiscal year required under paragraph (2);
 20 less

21 “(B) any amount made available during
 22 the preceding fiscal year to the Secretary and
 23 the Commodity Credit Corporation out of funds
 24 allocated through national tobacco settlement
 25 legislation.

1 “(2) CONTRIBUTIONS.—The amount of the con-
 2 tribution for each fiscal year under paragraph (1)(A)
 3 shall be the amount necessary to carry out during
 4 the fiscal year the Tobacco-Dependent Communities
 5 Assistance Act of 2002 and the amendments made
 6 by that Act, as determined by the Secretary.

7 “(d) INDIVIDUAL AMOUNT OF ASSESSMENTS.—The
 8 amount of an assessment payable by each tobacco product
 9 manufacturer and tobacco product importer under this
 10 section for a fiscal year shall be equal to the product ob-
 11 tained by multiplying—

12 “(1) the total amount of assessments payable
 13 by all tobacco product manufacturers and tobacco
 14 product importers for the fiscal year under sub-
 15 section (c); by

16 “(2) the market share of the tobacco product
 17 manufacturer or tobacco product importer during
 18 the most recent calendar year determined under sub-
 19 section (b)(1)(A).”.

20 **SEC. 113. SENSE OF CONGRESS ON INVESTMENT OF TO-**
 21 **BACCO EQUITY PAYMENTS IN INVESTMENT**
 22 **RETIREMENT ACCOUNTS.**

23 It is the sense of Congress that quota owners and
 24 growers of Flue-cured and Burley quota tobacco should
 25 be able to invest payments received section 380j of the

1 Agricultural Adjustment Act of 1938 (as added by section
2 111) in tax-deferred investment retirement accounts.

3 **Subtitle C—Termination of Mar-**
4 **keting Quotas for Flue-Cured**
5 **and Burley Tobacco**

6 **SEC. 121. DEFINITION OF COVERED TOBACCO.**

7 Part I of subtitle B of title III of the Agricultural
8 Adjustment Act of 1938 is amended by inserting before
9 section 311 (7 U.S.C. 1311) the following:

10 **“SEC. 310. DEFINITION OF COVERED TOBACCO.**

11 “In this part, the term ‘covered tobacco’ means any
12 kind of tobacco other than Flue-cured or Burley tobacco.”.

13 **SEC. 122. NATIONAL MARKETING QUOTA.**

14 Section 312 of the Agricultural Adjustment Act of
15 1938 (7 U.S.C. 1312) is amended—

16 (1) in subsection (a), by striking “December 1”
17 and all that follows through “other kinds of to-
18 bacco” and inserting “March 1 of any marketing
19 year with respect to covered tobacco”; and

20 (2) in the first sentence of subsection (b), by
21 striking “the first day of December” and all that fol-
22 lows through “other kinds of tobacco” and inserting
23 “March 1 with respect to covered tobacco”.

1 **SEC. 123. APPORTIONMENT OF NATIONAL MARKETING**
 2 **QUOTA.**

3 Section 313 of the Agricultural Adjustment Act of
 4 1938 (7 U.S.C. 1313) is amended—

5 (1) in subsection (a)—

6 (A) by striking “quota: *Provided*,” and all
 7 that follows through “acre: *And provided fur-*
 8 *ther*, That” and inserting “quota, except that”;
 9 and

10 (B) by striking “practices: *And provided*
 11 *further*,” and all that follows and inserting
 12 “practices.”;

13 (2) in the proviso of subsection (b), by striking
 14 “(1)” and all that follows through “or (2)” and in-
 15 serting “(1) 2,400 pounds, in the case of covered to-
 16 bacco, or (2)”;

17 (3) by striking subsection (e); and

18 (4) in paragraph (2) of the third sentence of
 19 subsection (g), by striking “three thousand” and all
 20 that follows through “tobacco: *Provided*, That” and
 21 inserting “2,400 pounds, in the case of covered to-
 22 bacco, except that”.

23 **SEC. 124. BURLEY TOBACCO ACREAGE ALLOTMENTS.**

24 The Act entitled “An Act relating to burley tobacco
 25 farm acreage allotments under the Agricultural Adjust-

1 ment Act of 1938, as amended”, approved July 12, 1952
 2 (7 U.S.C. 1315), is repealed.

3 **SEC. 125. LEASE AND TRANSFER OF ACREAGE ALLOT-**
 4 **MENTS.**

5 Section 316 of the Agricultural Adjustment Act of
 6 1938 (7 U.S.C. 1314b) is amended—

7 (1) by striking the section heading and all that
 8 follows through “(A)(i) The” and inserting the fol-
 9 lowing:

10 **“SEC. 316. LEASE AND TRANSFER OF ACREAGE ALLOT-**
 11 **MENTS.**

12 “(a) IN GENERAL.—Notwithstanding any other pro-
 13 vision of law, the”;

14 (2) in subsection (a)—

15 (A) by striking “Burley, Flue-cured,”; and

16 (B) by striking “(ii) The Secretary” and
 17 all that follows;

18 (3) in subsection (e)—

19 (A) by striking paragraph (2); and

20 (B) by redesignating paragraph (3) as
 21 paragraph (2); and

22 (4) by striking subsection (g) through the end
 23 of the section.

1 **SEC. 126. MANDATORY SALE OF FLUE-CURED TOBACCO**
 2 **ACREAGE ALLOTMENTS AND MARKETING**
 3 **QUOTAS.**

4 Section 316A of the Agricultural Adjustment Act of
 5 1938 (7 U.S.C. 1314b–1) is repealed.

6 **SEC. 127. MANDATORY SALE OF BURLEY TOBACCO ACRE-**
 7 **AGE ALLOTMENTS AND MARKETING QUOTAS.**

8 Section 316B of the Agricultural Adjustment Act of
 9 1938 (7 U.S.C. 1314b–2) is repealed.

10 **SEC. 128. ACREAGE—POUNDAGE QUOTAS.**

11 Section 317 of the Agricultural Adjustment Act of
 12 1938 (7 U.S.C. 1314c) is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1)—

15 (i) by striking “(1)(A)” and inserting
 16 “(1)”; and

17 (ii) by striking subparagraphs (B) and
 18 (C);

19 (B) in paragraph (2), by striking the last
 20 sentence;

21 (C) in paragraph (4), by striking the sec-
 22 ond and third sentences; and

23 (D) by striking paragraph (5) and all that
 24 follows through the end of the first sentence of
 25 paragraph (6)(B) and inserting the following:

1 “(5) COMMUNITY AVERAGE YIELD.—The term
 2 ‘community average yield’ means, for covered to-
 3 bacco, the average yield per acre in the community
 4 designated by the Secretary as a local administrative
 5 area under section 8(b) of the Soil Conservation and
 6 Domestic Allotment Act (16 U.S.C. 590h(b)), which
 7 is determined by averaging the yields per acre for
 8 the 3 highest years of the 1960 through 1964 crop
 9 years, except that if the yield for any of the 3 high-
 10 est years is less than 80 percent of the average for
 11 the 3 years, that 1 or more years shall be eliminated
 12 and the average of the remaining years shall be the
 13 community average yield.

14 “(6) PRELIMINARY FARM YIELD.—

15 “(A) IN GENERAL.—The term ‘preliminary
 16 farm yield’ for covered tobacco means a farm
 17 yield per acre determined by averaging the yield
 18 per acre for the 3 highest years of the imme-
 19 diately preceding 5 crops year, except that—

20 “(i) if that average exceeds 120 per-
 21 cent of the community average yield the
 22 preliminary farm yield shall be the sum of
 23 50 percent of the average of the 3 highest
 24 years and 50 percent of the national aver-

1 age yield goal but not less than 120 per-
2 cent of the community average yield; and

3 “(ii) if the average of the 3 highest
4 years is less than 80 percent of the com-
5 munity average yield the preliminary farm
6 yield shall be 80 percent of the community
7 average yield.

8 “(B) ADMINISTRATION.—”;

9 (2) by striking subsection (b);

10 (3) in the first sentence of subsection (c)—

11 (A) by striking “, including Flue-cured to-
12 bacco,”; and

13 (B) in the proviso, by striking “except
14 Flue-cured tobacco”;

15 (4) in subsection (d)—

16 (A) in the first sentence, by striking “De-
17 cember 15 of any marketing year with respect
18 to Flue-cured tobacco, and March 1 with re-
19 spect to other kinds of tobacco” and inserting
20 “March 1 with respect to covered tobacco”;

21 (B) by striking the second and fourth sen-
22 tences;

23 (C) in the eighth sentence, by striking “the
24 December 15 with respect to Flue-cured to-
25 bacco and the March 1 with respect to other

1 kinds of tobacco” and inserting “the March 1
2 with respect to covered tobacco”; and

3 (D) by striking the last 2 sentences;

4 (5) in subsection (f), by striking the last sen-
5 tence;

6 (6) in subsection (g)(1), by striking “(120 per
7 centum” and all that follows through “section)”;

8 (7) by striking subsections (h), (i), (k), and (l);
9 and

10 (8) by redesignating subsection (j) as sub-
11 section (h).

12 **SEC. 129. FARM POUNDAGE QUOTAS FOR CERTAIN KINDS**
13 **OF TOBACCO.**

14 Section 319 of the Agricultural Adjustment Act of
15 1938 (7 U.S.C. 1314e) is amended—

16 (1) by striking subsection (a);

17 (2) in subsection (c)—

18 (A) in paragraph (1), by striking “Except
19 as provided in paragraph (3), the” and insert-
20 ing “The”; and

21 (B) by striking paragraph (3);

22 (3) in subsection (d)—

23 (A) in the first sentence, by striking “for
24 the marketing year beginning October 1, 1970,
25 in the case of burley tobacco, and”; and

1 (B) in the second sentence—

2 (i) by striking “the five consecutive
3 years beginning with the 1966 crop year,
4 in the case of burley tobacco, and”; and

5 (ii) in the third proviso, by striking
6 “three thousand five hundred pounds per
7 acre, in the case of burley tobacco, and”;

8 (4) in subsection (e)—

9 (A) by striking the first sentence; and

10 (B) by striking the second proviso;

11 (5) in subsection (g)—

12 (A) in paragraph (1)—

13 (i) by striking “(1)”; and

14 (ii) by striking the third and fourth
15 provisos; and

16 (B) by striking paragraphs (2) and (3);

17 (6) by striking subsection (h);

18 (7) in subsection (i)(3), by striking the second
19 and third sentences; and

20 (8) by striking subsections (k), (l), (m), and
21 (n).

1 **Subtitle D—Administration**

2 **SEC. 141. PURCHASE INTENTIONS BY CIGARETTE MANU-**
3 **FACTURERS.**

4 Section 320A(a)(1) of the Agricultural Adjustment
5 Act of 1938 (7 U.S.C. 1314g(a)(1)) is amended—

6 (1) by striking “(or, in the case of the 1986
7 crop, 14 days after the date of enactment of the
8 Consolidated Omnibus Budget Reconciliation Act of
9 1985)”;

10 (2) by striking “(or, in the case of the 1986
11 crop, 14 days after the date of enactment of such
12 Act or January 15, 1986, whichever is later)”; and

13 (3) by striking “marketing quota” each place it
14 appears and inserting “production poundage per-
15 mit”.

16 **SEC. 142. PURCHASE REQUIREMENTS AND PENALTIES.**

17 Section 320B of the Agricultural Adjustment Act of
18 1938 (7 U.S.C. 1314h) is amended—

19 (1) by striking “quota tobacco” each place it
20 appears and inserting “covered tobacco”;

21 (2) in subsection (b)—

22 (A) in paragraph (1), by striking “at least
23 90 percent of”; and

24 (B) in paragraph (2)(A)—

1 (i) by striking “marketing quota”
 2 each place it appears and inserting “pro-
 3 duction poundage permit”; and

4 (ii) by striking “or undermarketings”
 5 each place it appears;

6 (3) in subsection (c)—

7 (A) by striking paragraph (1) and insert-
 8 ing the following:

9 “(1) the penalty rate for the applicable kind of
 10 tobacco under section 314(a); by”; and

11 (B) in paragraph (2)(B), by striking “90
 12 percent of”; and

13 (4) in subsection (f), by striking “marketing
 14 quotas” each place it appears and inserting “produc-
 15 tion poundage permits”.

16 **SEC. 143. TOBACCO PRODUCTION AND MARKETING INFOR-**
 17 **MATION.**

18 (a) IN GENERAL.—Section 320D(a) of the Agricul-
 19 tural Adjustment Act of 1938 (7 U.S.C. 1314i(a)) is
 20 amended—

21 (1) by striking “Notwithstanding” and insert-
 22 ing the following:

23 “(1) STATE TRUSTS AND SIMILAR ORGANIZA-
 24 TIONS.—Notwithstanding”; and

25 (2) by adding at the end the following:

1 “(2) FOREIGN COUNTRIES.—

2 “(A) IN GENERAL.—The Secretary shall
3 collect and disseminate information from for-
4 eign countries regarding production, consump-
5 tion, and such other information related to pro-
6 duction and consumption of tobacco in such
7 countries as the Secretary determines appro-
8 priate.

9 “(B) INFORMATION.—The information
10 shall include material related to market devel-
11 opment, international trade agreements and ne-
12 gotiations, economic research, and the collection
13 and analysis of statistics and market informa-
14 tion.”.

15 (b) CONFORMING AMENDMENT.—Section 320D(e)(2)
16 of the Agricultural Adjustment Act of 1938 (7 U.S.C.
17 1314i(e)(2)) is amended by inserting “or production
18 poundage permits” after “quotas”.

19 **SEC. 144. PUBLICATION OF QUOTAS.**

20 (a) APPLICABILITY.—Section 361 of the Agricultural
21 Adjustment Act of 1938 (7 U.S.C. 1361) is amended—

22 (1) by striking “This” and inserting “Except as
23 otherwise provided in this Act, this”; and

24 (2) by inserting “or production poundage per-
25 mits” after “quotas”.

1 (b) PUBLICATION AND NOTICE.—Section 362 of the
 2 Agricultural Adjustment Act of 1938 (7 U.S.C. 1362) is
 3 amended—

4 (1) in the first sentence, by inserting “or pro-
 5 duction poundage permits” after “quotas”;

6 (2) in the third sentence—

7 (A) by inserting “or production poundage
 8 permit” after “quota”; and

9 (B) by inserting “or active grower” after
 10 “farmer”; and

11 (3) in the fourth sentence—

12 (A) by inserting “or production poundage
 13 permit” after “allotment” each place it appears;

14 (B) by inserting “or active grower” after
 15 “each farm”; and

16 (C) by inserting “or active grower” after
 17 “operator”.

18 (c) INAPPLICABILITY TO TOBACCO.—Part I of sub-
 19 title C of title III of the Agricultural Adjustment Act of
 20 1938 (7 U.S.C. 1361 et seq.) is amended by adding at
 21 the end the following:

22 **“SEC. 369. INAPPLICABILITY TO TOBACCO.**

23 “Sections 363 through 368 shall not apply to to-
 24 bacco.”.

1 **SEC. 145. GENERAL ADJUSTMENT OF QUOTAS.**

2 Section 371 of the Agricultural Adjustment Act of
3 1938 (7 U.S.C. 1371) is amended—

4 (1) in subsection (a), by inserting “or produc-
5 tion poundage permits” after “quotas” each place it
6 appears;

7 (2) in subsection (b)—

8 (A) in the first sentence, by inserting “or
9 production poundage permit” after “acreage al-
10 lotment”; and

11 (B) in the second sentence, by inserting “,
12 permit,” after “such quota”; and

13 (3) in subsection (c) by inserting “, production
14 poundage permit,” after “quota” each place it ap-
15 pears.

16 **SEC. 146. EMINENT DOMAIN.**

17 Section 378(f) of the Agricultural Adjustment Act of
18 1938 (7 U.S.C. 1378(f)) is amended—

19 (1) by striking “(f) In applying the provisions
20 of this” and inserting the following:

21 “(f) APPLICATION TO FARMS WITH QUOTAS OR PER-
22 MITS.—

23 “(1) QUOTAS.—In applying this”; and

24 (2) by adding at the end the following:

1 “(2) PERMITS.—In applying this section to pro-
 2 duction poundage permits for Flue-cured and Burley
 3 tobacco established under this Act:

4 “(A) ALLOTMENT.—The term ‘allotment’
 5 means a production poundage permit for Flue-
 6 cured or Burley tobacco.

7 “(B) OWN.—The term ‘own’ means, with
 8 respect to an active grower, to own or lease
 9 land.

10 “(C) OWNER.—The term ‘owner’ means an
 11 active grower to whom a permit has been
 12 issued.”.

13 **SEC. 147. RECONSTITUTION OF FARMS.**

14 Section 379 of the Agricultural Adjustment Act of
 15 1938 (7 U.S.C. 1379) is amended—

16 (1) in subsection (a)(6), by striking all after
 17 “uses” and inserting a period; and

18 (2) in subsection (b), by striking “if (1)” and
 19 all that follows through “(2)”; and

20 (3) by striking subsection (c).

21 **SEC. 148. VOLUNTARY RELINQUISHMENT OF ALLOTMENTS.**

22 Section 803 of the Agriculture Act of 1970 (16
 23 U.S.C. 590q–2) is amended—

24 (1) by inserting “, production poundage per-
 25 mit,” after “allotment” each place it appears; and

1 (2) by inserting “, or active grower in the case
 2 of a production poundage permit for tobacco,” after
 3 “farm”.

4 **SEC. 149. PROHIBITION ON PROMOTION OF MANUFAC-**
 5 **TURED TOBACCO PRODUCTS.**

6 Part I of subtitle F of title III of the Agricultural
 7 Adjustment Act of 1938 (7 U.S.C. 1381 et seq.) is amend-
 8 ed by adding at the end the following:

9 **“SEC. 390A. PROHIBITION ON PROMOTION OF MANUFAC-**
 10 **TURED TOBACCO PRODUCTS.**

11 “Notwithstanding any other provision of law, no offi-
 12 cer or employee of the Federal Government, or any agent
 13 acting on behalf of an officer or employee, shall have any
 14 authority under this or any other Act—

15 “(1) to promote the sale of a manufactured to-
 16 bacco product; or

17 “(2) to seek the reduction or removal by any
 18 foreign country of a restriction on the marketing of
 19 manufactured tobacco products, except for a restric-
 20 tion that is not applied equally to all manufactured
 21 tobacco products of the same type.”.

TITLE II—TOBACCO PRICE SUPPORT

SEC. 201. TOBACCO PRICE SUPPORT.

(a) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended to read as follows:

“SEC. 106. TOBACCO PRICE SUPPORT.

“(a) PRICE SUPPORT RATE TO REFLECT COST OF PRODUCTION.—

“(1) ESTABLISHMENT AND ANNUAL ADJUSTMENT.—The price of each type of tobacco produced in the United States shall be supported at a rate established by the Secretary, and adjusted annually, to reflect the costs of production for producers of that type of tobacco.

“(2) DETERMINATION OF COST OF PRODUCTION.—

“(A) IN GENERAL.—The Secretary shall use the information collection and survey resources of the Economic Research Service and National Agricultural Statistics Service of the Department of Agriculture to determine the cost of domestic tobacco production, including marketing assessments.

1 “(B) REEVALUATION.—The Economic Re-
 2 search Service shall reevaluate the cost of pro-
 3 duction annually, based on the survey of factors
 4 used by the Economic Research Service, which
 5 shall be conducted once every 5 years.

6 “(b) CONSIDERATION OF INTERNATIONAL PRICE
 7 LEVELS.—In establishing the price support rate for a type
 8 of tobacco, the Secretary shall also consider international
 9 tobacco price levels.

10 “(c) CONSULTATION.—The Secretary shall consult
 11 with farm organizations, producer cooperatives and asso-
 12 ciations, colleges and universities in tobacco-producing
 13 States, and other interested persons when determining the
 14 costs of tobacco production and establishing or adjusting
 15 the price support rate.

16 “(d) DIFFERENCES IN GRADE.—The Secretary may
 17 take into consideration differences in tobacco grades when
 18 establishing or adjusting the price support rate for a type
 19 of tobacco.”.

20 (b) ELIMINATION OF REFERENCES TO QUOTA TO-
 21 BACCO IN NO NET COST PROVISIONS.—

22 (1) NO NET COST TOBACCO FUND.—Section
 23 106A of the Agricultural Act of 1949 (7 U.S.C.
 24 1445–1) is amended—

25 (A) in subsection (a)—

1 (i) by striking “quota” each place it
 2 appears in paragraphs (4), (5), and (6);

3 (ii) in paragraph (5), by inserting
 4 “and” after the semicolon at the end;

5 (iii) in paragraph (6), by striking “;
 6 and” and inserting a period; and

7 (iv) by striking paragraph (7);

8 (B) in subsection (d), by striking “quota”
 9 each place it appears in paragraphs (1), (3),
 10 and (7); and

11 (C) in the first sentence of subsection (e),
 12 by striking “quota”.

13 (2) NO NET COST TOBACCO ACCOUNT.—Section
 14 106B of the Agricultural Act of 1949 (7 U.S.C.
 15 1445–2) is amended—

16 (A) in subsection (a)—

17 (i) in paragraph (5), by striking “, for
 18 which marketing quotas are in effect or for
 19 which marketing quotas are not dis-
 20 approved by producers”; and

21 (ii) in paragraph (8), by striking
 22 “quota”; and

23 (B) in subsection (d), by striking “quota”
 24 each place it appears in paragraphs (1)(B) and
 25 (2)(A).

1 **SEC. 202. CONFORMING AMENDMENTS.**

2 (a) PARITY PRICE SUPPORT.—Section 101 of the Ag-
3 ricultural Act of 1949 (7 U.S.C. 1441) is amended—

4 (1) in the first sentence of subsection (a), by
5 striking “tobacco (except as otherwise provided here-
6 in), corn,” and inserting “corn”;

7 (2) by striking subsection (c);

8 (3) in subsection (d)(3)—

9 (A) by striking “, except tobacco,”; and

10 (B) by striking “and no price support shall
11 be made available for any crop of tobacco for
12 which marketing quotas have been disapproved
13 by producers;”; and

14 (4) by redesignating subsections (d) and (e) as
15 subsection (c) and (d), respectively.

16 (b) DEFINITION OF BASIC AGRICULTURAL COM-
17 MODITY.—Section 408(c) of the Agricultural Act of 1949
18 (7 U.S.C. 1428(c)) is amended by striking “tobacco,”.

19 **TITLE III—TOBACCO**
20 **STANDARDS AND INSPECTIONS**

21 **SEC. 301. TOBACCO STANDARDS.**

22 (a) DEFINITION.—The first section of the Tobacco
23 Inspection Act (7 U.S.C. 511) is amended by adding at
24 the end the following:

1 “(j) NONAUCTION SALE.—The term ‘nonauction
2 sale’ means a sale of tobacco by contract or means
3 other than through a sale at auction.”.

4 (b) FINDINGS.—Section 2 of the Tobacco Inspection
5 Act (7 U.S.C. 511a) is amended by inserting after “mar-
6 kets” the following: “or by nonauction sale (including re-
7 ceiving stations operated by loan associations under sec-
8 tions 106A and 106B of the Agricultural Act of 1949 (7
9 U.S.C. 1445–1 and 1445–2)”.

10 (c) CERTIFICATION OF GRADE.—Section 8 of the To-
11 bacco Inspection Act (7 U.S.C. 511g) is amended—

12 (1) by striking “Warehousemen” and inserting
13 “Warehouse operators or other purchasers of to-
14 bacco”; and

15 (2) by striking “warehouse” each place it ap-
16 pears.

17 (d) APPLICABILITY.—The Tobacco Inspection Act is
18 amended—

19 (1) by redesignating section 18 (7 U.S.C. 511q)
20 as section 19; and

21 (2) by inserting after section 17 (7 U.S.C.
22 511p) the following:

1 **“SEC. 18. APPLICABILITY TO NONAUCTION SALE OF TO-**
 2 **BACCO.**

3 “This Act also shall apply to any nonauction sale of
 4 tobacco.”.

5 **SEC. 302. TOBACCO INSPECTIONS.**

6 (a) TOBACCO TO BE INSPECTED.—Section 213(a)(1)
 7 of the Tobacco Adjustment Act of 1983 (7 U.S.C.
 8 511r(a)(1)) is amended—

9 (1) by striking “, except tobacco described in
 10 paragraph (2),”; and

11 (2) by striking “through a warehouse”.

12 (b) UNIFORMITY OF STANDARDS.—Section 213(b) of
 13 the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r(b))
 14 is amended—

15 (1) by striking “through a warehouse”; and

16 (2) by inserting before the period the following:
 17 “, including oriental tobacco regardless of whether
 18 the tobacco is not produced in the United States”.

19 (c) CERTIFICATION.—Section 213(e) of the Tobacco
 20 Adjustment Act of 1983 (7 U.S.C. 511r(e)) is amended—

21 (1) in paragraphs (1), (4), and (5), by striking
 22 “flue-cured or burley” each place it appears; and

23 (2) in paragraphs (2) and (3), by striking
 24 “flue-cured and burley” and inserting “all”.

25 (d) IDENTIFICATION OF END USERS.—Section
 26 213(f)(1) of the Tobacco Adjustment Act of 1983 (7

1 U.S.C. 511r(f)(1)) is amended in the second sentence by
 2 striking “flue cured or burley”.

3 **TITLE IV—FARMER AND WORK-** 4 **ER TRANSITION ASSISTANCE**

5 **SEC. 401. TOBACCO WORKER TRANSITION PROGRAM.**

6 (a) GROUP ELIGIBILITY REQUIREMENTS.—

7 (1) CRITERIA.—A group of workers (including
 8 workers in any firm or subdivision of a firm involved
 9 in the manufacture, processing, or warehousing of
 10 tobacco or tobacco products) shall be certified as eli-
 11 gible to apply for adjustment assistance under this
 12 section pursuant to a petition filed under subsection

13 (b) if the Secretary of Labor determines that a sig-
 14 nificant number or proportion of the workers in the
 15 workers’ firm or an appropriate subdivision of the
 16 firm have become totally or partially separated, or
 17 are threatened to become totally or partially sepa-
 18 rated, and—

19 (A) the sales or production, or both, of
 20 such firm or subdivision have decreased abso-
 21 lutely; and

22 (B) the implementation of the national to-
 23 bacco settlement contributed importantly to
 24 such workers’ separation or threat of separation

1 and to the decline in the sales or production of
2 such firm or subdivision.

3 (2) DEFINITION OF CONTRIBUTED IMPOR-
4 TANTLY.—In paragraph (1)(B), the term “contrib-
5 uted importantly” means a cause that is important
6 but not necessarily more important than any other
7 cause.

8 (3) REGULATIONS.—The Secretary shall pro-
9 mulgate regulations relating to the application of the
10 criteria described in paragraph (1) in making pre-
11 liminary findings under subsection (b) and deter-
12 minations under subsection (c).

13 (b) PRELIMINARY FINDINGS AND BASIC ASSIST-
14 ANCE.—

15 (1) FILING OF PETITIONS.—A petition for cer-
16 tification of eligibility to apply for adjustment assist-
17 ance under this section may be filed by a group of
18 workers (including workers in any firm or subdivi-
19 sion of a firm involved in the manufacture, proc-
20 essing, or warehousing of tobacco or tobacco prod-
21 ucts) or by their certified or recognized union or
22 other duly authorized representative with the Gov-
23 ernor of the State in which the workers’ firm or sub-
24 division thereof is located.

1 (2) FINDINGS AND ASSISTANCE.—Upon receipt
2 of a petition under paragraph (1), the Governor
3 shall—

4 (A) notify the Secretary that the Governor
5 has received the petition;

6 (B) not later than 10 days after receiving
7 the petition—

8 (i) make a preliminary finding as to
9 whether the petition meets the criteria de-
10 scribed in subsection (a)(1); and

11 (ii) transmit the petition, together
12 with a statement of the finding under
13 clause (i) and reasons for the finding, to
14 the Secretary for action under subsection
15 (c); and

16 (C) if the preliminary finding under sub-
17 paragraph (B)(i) is affirmative, ensure that
18 rapid response and basic readjustment services
19 authorized under other Federal laws are made
20 available to the workers.

21 (c) REVIEW OF PETITIONS BY SECRETARY; CERTIFI-
22 CATIONS.—

23 (1) DETERMINATION.—

24 (A) IN GENERAL.—Not later than 30 days
25 after receiving a petition under subsection

1 (b)(2)(B)(ii), the Secretary shall determine
 2 whether the petition meets the criteria de-
 3 scribed in subsection (a)(1).

4 (B) AFFIRMATIVE DETERMINATION.—
 5 Upon a determination that the petition meets
 6 those criteria, the Secretary shall issue to work-
 7 ers covered by the petition a certification of eli-
 8 gibility to apply for the assistance described in
 9 subsection (d).

10 (2) DENIAL OF CERTIFICATION.—Upon the de-
 11 nial of a certification with respect to a petition
 12 under paragraph (1), the Secretary shall review the
 13 petition in accordance with the requirements of
 14 other applicable assistance programs to determine if
 15 the workers may be certified under those programs.

16 (d) COMPREHENSIVE ASSISTANCE.—

17 (1) IN GENERAL.—Workers covered by a certifi-
 18 cation issued by the Secretary under subsection
 19 (c)(1) shall be provided benefits and services de-
 20 scribed in paragraph (2) in the same manner and to
 21 the same extent as workers covered under a certifi-
 22 cation under subchapter A of title II of the Trade
 23 Act of 1974 (19 U.S.C. 2271 et seq.), except that
 24 the total amount of payments under this section for
 25 any fiscal year shall not exceed \$50,000,000.

1 (2) BENEFITS AND SERVICES.—The benefits
2 and services described in this paragraph are the fol-
3 lowing:

4 (A) Employment services of the type de-
5 scribed in section 235 of the Trade Act of 1974
6 (19 U.S.C. 2295).

7 (B) Training described in section 236 of
8 the Trade Act of 1974 (19 U.S.C. 2296), ex-
9 cept that notwithstanding the provisions of sec-
10 tion 236(a)(2)(A) of that Act, the total amount
11 of payments for training under this section for
12 any fiscal year shall not exceed \$25,000,000.

13 (C) Tobacco worker readjustment allow-
14 ances, which shall be provided in the same man-
15 ner as trade readjustment allowances are pro-
16 vided under part I of subchapter B of chapter
17 2 of title II of the Trade Act of 1974 (19
18 U.S.C. 2291 et seq.), except that—

19 (i) the provisions of sections
20 231(a)(5)(C) and 231(c) of that Act (19
21 U.S.C. 2291(a)(5)(C), 2291(c)), author-
22 izing the payment of trade readjustment
23 allowances upon a finding that it is not
24 feasible or appropriate to approve a train-
25 ing program for a worker, shall not be ap-

1 plicable to payment of allowances under
2 this section; and

3 (ii) notwithstanding the provisions of
4 section 233(b) of that Act (19 U.S.C.
5 2293(b)), in order for a worker to qualify
6 for tobacco readjustment allowances under
7 this section, the worker shall be enrolled in
8 a training program approved by the Sec-
9 retary of the type described in section
10 236(a) of that Act (19 U.S.C. 2296(a)) by
11 the later of—

12 (I) the last day of the 16th week
13 of such worker's initial unemployment
14 compensation benefit period; or

15 (II) the last day of the 6th week
16 after the week in which the Secretary
17 issues a certification covering the
18 worker.

19 (D) Job search allowances of the type de-
20 scribed in section 237 of the Trade Act of 1974
21 (19 U.S.C. 2297).

22 (E) Relocation allowances of the type de-
23 scribed in section 238 of the Trade Act of 1974
24 (19 U.S.C. 2298).

1 (3) EXTENUATING CIRCUMSTANCES.—In cases
 2 of extenuating circumstances (as determined by the
 3 Secretary) relating to enrollment of a worker in a
 4 training program under this section, the Secretary
 5 may extend the time for enrollment for a period of
 6 not to exceed 30 days.

7 (e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAY-
 8 MENTS FOR LOST TOBACCO QUOTA.—No benefit or serv-
 9 ice may be provided under this section to any individual
 10 who has received payments for lost tobacco quota under
 11 section 380k of the Agricultural Adjustment Act of 1938
 12 (as added by section 111).

13 (f) FUNDING.—Of the amounts made available under
 14 section 380k of the Agricultural Adjustment Act of 1938
 15 (as added by section 111), the Secretary may use not to
 16 exceed \$50,000,000 for each of fiscal years 2003 through
 17 2012 to provide assistance under this section.

18 (g) EFFECTIVE DATE.—This section shall take effect
 19 on the date that is the later of—

20 (1) October 1, 2003; or

21 (2) the date on which legislation implementing
 22 the national tobacco settlement is enacted.

23 (h) TERMINATION DATE.—No assistance, voucher,
 24 allowance, or other payment may be provided under this
 25 section after the date that is the earlier of—

1 (1) the date that is 10 years after the effective
 2 date of this section under subsection (g); or

3 (2) the date on which legislation establishing a
 4 program providing dislocated workers with com-
 5 prehensive assistance substantially similar to the as-
 6 sistance provided by this section becomes effective.

7 **SEC. 402. FARMER OPPORTUNITY GRANTS.**

8 Part A of title IV of the Higher Education Act of
 9 1965 (20 U.S.C. 1070 et seq.) is amended by adding at
 10 the end the following:

11 **“Subpart 9—Farmer Opportunity**
 12 **Grants**

13 **“SEC. 420L. STATEMENT OF PURPOSE.**

14 “It is the purpose of this subpart to assist in making
 15 available the benefits of postsecondary education to eligi-
 16 ble students (determined in accordance with section 420N)
 17 in institutions of higher education by providing farmer op-
 18 portunity grants to all eligible students.

19 **“SEC. 420M. PROGRAM AUTHORITY; AMOUNT AND DETER-**
 20 **MINATIONS; APPLICATIONS.**

21 “(a) PROGRAM AUTHORITY AND METHOD OF DIS-
 22 TRIBUTION.—

23 “(1) PROGRAM AUTHORITY.—From amounts
 24 made available under section 380k of the Agricul-
 25 tural Adjustment Act of 1938 (as added by section

1 111 of the Tobacco-Dependent Communities Assist-
2 ance Act of 2002), the Secretary, during the period
3 beginning July 1, 2003, and ending September 30,
4 2024, shall pay to each eligible institution such sums
5 as may be necessary to pay to each eligible student
6 (determined in accordance with section 420N) for
7 each academic year during which that student is in
8 attendance at an institution of higher education, as
9 an undergraduate, a farmer opportunity grant in the
10 amount for which that student is eligible, as deter-
11 mined pursuant to subsection (b). Not less than 85
12 percent of such sums shall be advanced to eligible
13 institutions prior to the start of each payment period
14 and shall be based upon an amount requested by the
15 institution as needed to pay eligible students, except
16 that this sentence shall not be construed to limit the
17 authority of the Secretary to place an institution on
18 a reimbursement system of payment.

19 “(2) CONSTRUCTION.—Nothing in this section
20 shall be construed to prohibit the Secretary from
21 paying directly to students, in advance of the begin-
22 ning of the academic term, an amount for which the
23 students are eligible, in cases where the eligible in-
24 stitution elects not to participate in the disburse-
25 ment system required by paragraph (1).

1 “(3) DESIGNATION.—Grants made under this
2 subpart shall be known as ‘farmer opportunity
3 grants’.

4 “(b) AMOUNT OF GRANTS.—

5 “(1) AMOUNTS.—

6 “(A) IN GENERAL.—The amount of the
7 grant for a student eligible under this subpart
8 shall be—

9 “(i) \$1,700 for academic year 2003
10 through 2004;

11 “(ii) \$2,000 for each of the academic
12 years 2004–2005 through 2008–2009;

13 “(iii) \$2,300 for each of the academic
14 years 2009–2010 through 2013–2014;

15 “(iv) \$2,600 for each of the academic
16 years 2014–2015 through 2018–2019; and

17 “(v) \$2,900 for each of the academic
18 years 2019–2020 through 2023–2024;

19 “(B) PART-TIME RULE.—In any case
20 where a student attends an institution of higher
21 education on less than a full-time basis (includ-
22 ing a student who attends an institution of
23 higher education on less than a half-time basis)
24 during any academic year, the amount of the
25 grant for which that student is eligible shall be

1 reduced in proportion to the degree to which
2 that student is not so attending on a full-time
3 basis, in accordance with a schedule of reduc-
4 tions established by the Secretary for the pur-
5 poses of this subparagraph, computed in ac-
6 cordance with this subpart. Such schedule of re-
7 ductions shall be established by regulation and
8 published in the Federal Register.

9 “(2) MAXIMUM.—No grant under this subpart
10 shall exceed the cost of attendance (as described in
11 section 472) at the institution at which that student
12 is in attendance. If, with respect to any student, it
13 is determined that the amount of a grant exceeds
14 the cost of attendance for that year, the amount of
15 the grant shall be reduced to an amount equal to the
16 cost of attendance at such institution.

17 “(3) PROHIBITION.—No grant shall be awarded
18 under this subpart to any individual who is incarcer-
19 ated in any Federal, State, or local penal institution.

20 “(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

21 “(1) IN GENERAL.—The period during which a
22 student may receive grants shall be the period re-
23 quired for the completion of the first undergraduate
24 baccalaureate course of study being pursued by that
25 student at the institution at which the student is in

1 attendance, except that any period during which the
2 student is enrolled in a noncredit or remedial course
3 of study as described in paragraph (2) shall not be
4 counted for the purpose of this paragraph.

5 “(2) CONSTRUCTION.—Nothing in this section
6 shall be construed to—

7 “(A) exclude from eligibility courses of
8 study that are noncredit or remedial in nature
9 and that are determined by the institution to be
10 necessary to help the student be prepared for
11 the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of
12 courses in English language instruction, to be
13 necessary to enable the student to utilize already existing knowledge, training, or skills;
14 and
15
16

17 “(B) exclude from eligibility programs of
18 study abroad that are approved for credit by
19 the home institution at which the student is enrolled.
20

21 “(3) PROHIBITION.—No student is entitled to
22 receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.
23
24

25 “(d) APPLICATIONS FOR GRANTS.—

1 “(1) IN GENERAL.—The Secretary shall from
2 time to time set dates by which students shall file
3 applications for grants under this subpart. The filing
4 of applications under this subpart shall be coordi-
5 nated with the filing of applications under section
6 401(d).

7 “(2) INFORMATION AND ASSURANCES.—Each
8 student desiring a grant for any year shall file with
9 the Secretary an application for the grant containing
10 such information and assurances as the Secretary
11 may determine necessary to enable the Secretary to
12 carry out the Secretary’s functions and responsibil-
13 ities under this subpart.

14 “(e) DISTRIBUTION OF GRANTS TO STUDENTS.—
15 Payments under this section shall be made in accordance
16 with regulations promulgated by the Secretary for such
17 purpose, in such manner as will best accomplish the pur-
18 pose of this subpart. Any disbursement allowed to be made
19 by crediting the student’s account shall be limited to tui-
20 tion and fees and, in the case of institutionally owned
21 housing, room and board. The student may elect to have
22 the institution provide other such goods and services by
23 crediting the student’s account.

24 “(f) INSUFFICIENT FUNDING.—If, for any fiscal
25 year, the funds made available to carry out this subpart

1 under section 380k of the Agricultural Adjustment Act of
 2 1938 (as added by section 111 of the Tobacco-Dependent
 3 Communities Assistance Act of 2002) are insufficient to
 4 satisfy fully all grants for students determined to be eligi-
 5 ble under section 420N, the amount of the grant provided
 6 under subsection (b) shall be reduced on a pro rata basis
 7 among all eligible students.

8 “(g) TREATMENT OF INSTITUTIONS AND STUDENTS
 9 UNDER OTHER LAWS.—Any institution of higher edu-
 10 cation that enters into an agreement with the Secretary
 11 to disburse to students attending that institution the
 12 amounts those students are eligible to receive under this
 13 subpart shall not be deemed, by virtue of such agreement,
 14 to be a contractor maintaining a system of records to ac-
 15 complish a function of the Secretary. Recipients of farmer
 16 opportunity grants shall not be considered to be individual
 17 grantees for purposes of the Drug-Free Workplace Act of
 18 1988 (41 U.S.C. 701 et seq.).

19 **“SEC. 420N. STUDENT ELIGIBILITY.**

20 “(a) IN GENERAL.—In order to receive any grant
 21 under this subpart, a student shall—

22 “(1) be a member of a tobacco farm family in
 23 accordance with subsection (b);

24 “(2) be enrolled or accepted for enrollment in
 25 a degree, certificate, or other program (including a

1 program of study abroad approved for credit by the
2 eligible institution at which such student is enrolled)
3 leading to a recognized educational credential at an
4 institution of higher education that is an eligible in-
5 stitution in accordance with section 487, and not be
6 enrolled in an elementary school or secondary school;

7 “(3) if the student is presently enrolled at an
8 institution of higher education, be maintaining satis-
9 factory progress in the course of study the student
10 is pursuing in accordance with subsection (c);

11 “(4) not owe a refund on grants previously re-
12 ceived at any institution of higher education under
13 this title, or be in default on any loan from a stu-
14 dent loan fund at any institution provided for in
15 part D, or a loan made, insured, or guaranteed by
16 the Secretary under this title for attendance at any
17 institution;

18 “(5) file with the institution of higher education
19 that the student intends to attend, or is attending,
20 a document, that need not be notarized, but that
21 shall include—

22 “(A) a statement of educational purpose
23 stating that the money attributable to such
24 grant will be used solely for expenses related to

1 attendance or continued attendance at such in-
 2 stitution; and

3 “(B) such student’s social security num-
 4 ber; and

5 “(6) be a citizen of the United States.

6 “(b) TOBACCO FARM FAMILIES.—

7 “(1) IN GENERAL.—For the purpose of sub-
 8 section (a)(1), a student is a member of a tobacco
 9 farm family if during calendar year 1996 the stu-
 10 dent was—

11 “(A) an individual who—

12 “(i) is an active grower (as defined in
 13 section 380a of the Agricultural Adjust-
 14 ment Act of 1938 (as added by section 101
 15 of the Tobacco-Dependent Communities
 16 Assistance Act of 2002); or

17 “(ii) is otherwise actively engaged in
 18 the production of tobacco;

19 “(B) a spouse, son, daughter, stepson, or
 20 stepdaughter of an individual described in sub-
 21 paragraph (A);

22 “(C) an individual—

23 “(i) who was a brother, sister, step-
 24 brother, stepsister, son-in-law, or daughter-

1 in-law of an individual described in sub-
 2 paragraph (A); and

3 “(ii) whose principal place of resi-
 4 dence was the home of the individual de-
 5 scribed in subparagraph (A); or

6 “(D) an individual who was a dependent
 7 (within the meaning of section 152 of the Inter-
 8 nal Revenue Code of 1986) of an individual de-
 9 scribed in subparagraph (A).

10 “(2) ADMINISTRATION.—On request, the Sec-
 11 retary of Agriculture shall provide to the Secretary
 12 such information as is necessary to carry out this
 13 subsection.

14 “(c) SATISFACTORY PROGRESS.—

15 “(1) IN GENERAL.—For the purpose of sub-
 16 section (a)(3), a student is maintaining satisfactory
 17 progress if—

18 “(A) the institution at which the student is
 19 in attendance reviews the progress of the stu-
 20 dent at the end of each academic year, or its
 21 equivalent, as determined by the institution;
 22 and

23 “(B) the student has at least a cumulative
 24 C average or its equivalent, or academic stand-
 25 ing consistent with the requirements for grad-

1 uation, as determined by the institution, at the
2 end of the second such academic year.

3 “(2) SPECIAL RULE.—Whenever a student fails
4 to meet the eligibility requirements of subsection
5 (a)(3) as a result of the application of this sub-
6 section and subsequent to that failure the student
7 has academic standing consistent with the require-
8 ments for graduation, as determined by the institu-
9 tion, for any grading period, the student may, sub-
10 ject to this subsection, again be eligible under sub-
11 section (a)(3) for a grant under this subpart.

12 “(3) WAIVER.—Any institution of higher edu-
13 cation at which the student is in attendance may
14 waive paragraph (1) or (2) for undue hardship based
15 on—

16 “(A) the death of a relative of the student;

17 “(B) the personal injury or illness of the
18 student; or

19 “(C) special circumstances as determined
20 by the institution.

21 “(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL
22 GRADUATES.—In order for a student who does not have
23 a certificate of graduation from a school providing sec-
24 ondary education, or the recognized equivalent of such cer-
25 tificate, to be eligible for any assistance under this sub-

1 part, the student shall meet either 1 of the following
2 standards:

3 “(1) EXAMINATION.—The student shall take an
4 independently administered examination and shall
5 achieve a score, specified by the Secretary, dem-
6 onstrating that such student can benefit from the
7 education or training being offered. Such examina-
8 tion shall be approved by the Secretary on the basis
9 of compliance with such standards for development,
10 administration, and scoring as the Secretary may
11 prescribe in regulations.

12 “(2) DETERMINATION.—The student shall be
13 determined as having the ability to benefit from the
14 education or training in accordance with such proc-
15 ess as the State shall prescribe. Any such process
16 described or approved by a State for the purposes of
17 this section shall be effective 6 months after the date
18 of submission to the Secretary unless the Secretary
19 disapproves such process. In determining whether to
20 approve or disapprove such process, the Secretary
21 shall take into account the effectiveness of such
22 process in enabling students without secondary
23 school diplomas or the recognized equivalent to ben-
24 efit from the instruction offered by institutions uti-
25 lizing such process, and shall also take into account

1 the cultural diversity, economic circumstances, and
2 educational preparation of the populations served by
3 the institutions.

4 “(e) SPECIAL RULE FOR CORRESPONDENCE
5 COURSES.—A student shall not be eligible to receive a
6 grant under this subpart for a correspondence course un-
7 less such course is part of a program leading to an asso-
8 ciate, bachelor, or graduate degree.

9 “(f) COURSES OFFERED THROUGH TELECOMMUNI-
10 CATIONS.—

11 “(1) RELATION TO CORRESPONDENCE
12 COURSES.—A student enrolled in a course of in-
13 struction at an eligible institution (other than an in-
14 stitute or school that meets the definition of eligible
15 institution under section 3 of the Carl D. Perkins
16 Vocational and Technical Education Act (20 U.S.C.
17 2302)) that is offered in whole or in part through
18 telecommunications and leads to a recognized asso-
19 ciate, bachelor, or graduate degree conferred by such
20 institution shall not be considered to be enrolled in
21 correspondence courses unless the total amount of
22 telecommunications and correspondence courses at
23 such institution equals or exceeds 50 percent of such
24 courses.

1 “(2) RESTRICTION OR REDUCTIONS OF FINAN-
2 CIAL AID.—A student’s eligibility to receive a grant
3 under this subpart may be reduced if a financial aid
4 officer determines under the discretionary authority
5 provided in section 479A that telecommunications
6 instruction results in a substantially reduced cost of
7 attendance to such student.

8 “(3) DEFINITION.—For the purposes of this
9 subsection, the term ‘telecommunications’ means the
10 use of television, audio, or computer transmission,
11 including open broadcast, closed circuit, cable,
12 microwave, or satellite, audio conferencing, computer
13 conferencing, or video cassettes or discs, except that
14 such term does not include a course that is delivered
15 using video cassette or disc recordings at such insti-
16 tution and that is not delivered in person to other
17 students of that institution.

18 (g) STUDY ABROAD.—Nothing in this subpart shall
19 be construed to limit or otherwise prohibit access to study
20 abroad programs approved by the home institution at
21 which a student is enrolled. An otherwise eligible student
22 who is engaged in a program of study abroad approved
23 for academic credit by the home institution at which the
24 student is enrolled shall be eligible to receive a grant under
25 this subpart, without regard to whether such study abroad

1 program is required as part of the student's degree pro-
2 gram.

3 “(h) VERIFICATION OF SOCIAL SECURITY NUM-
4 BER.—The Secretary, in cooperation with the Commis-
5 sioner of Social Security, shall verify any social security
6 number provided by a student to an eligible institution
7 under subsection (a)(5)(B) and shall enforce the following
8 conditions:

9 “(1) PENDING VERIFICATION.—Except as pro-
10 vided in paragraphs (2) and (3), an institution shall
11 not deny, reduce, delay, or terminate a student's eli-
12 gibility for assistance under this subpart because so-
13 cial security number verification is pending.

14 “(2) DENIAL OR TERMINATION.—If there is a
15 determination by the Secretary that the social secu-
16 rity number provided to an eligible institution by a
17 student is incorrect, the institution shall deny or ter-
18 minate the student's eligibility for any grant under
19 this subpart until such time as the student provides
20 documented evidence of a social security number
21 that is determined by the institution to be correct.

22 “(3) CONSTRUCTION.—Nothing in this sub-
23 section shall be construed to permit the Secretary to
24 take any compliance, disallowance, penalty, or other
25 regulatory action against—

1 “(A) any institution of higher education
 2 with respect to any error in a social security
 3 number, unless such error was a result of fraud
 4 on the part of the institution; or

5 “(B) any student with respect to any error
 6 in a social security number, unless such error
 7 was a result of fraud on the part of the stu-
 8 dent.”.

9 **TITLE V—TOBACCO COMMUNITY**
 10 **ECONOMIC DEVELOPMENT**
 11 **GRANTS**

12 **SEC. 501. TOBACCO COMMUNITY ECONOMIC DEVELOP-**
 13 **MENT GRANTS.**

14 Subtitle E of title III of the Agricultural Adjustment
 15 Act of 1938 (as amended by section 111) is amended by
 16 adding at the end the following:

17 **“SEC. 380k. TOBACCO COMMUNITY ECONOMIC DEVELOP-**
 18 **MENT GRANTS.**

19 “(a) IN GENERAL.—The Secretary shall make grants
 20 to tobacco-growing States in accordance with this section
 21 to enable the States to carry out economic development
 22 initiatives in tobacco-growing communities.

23 “(b) APPLICATION.—To be eligible to receive pay-
 24 ments under this section, a State shall prepare and submit
 25 to the Secretary an application at such time, in such man-

ner, and containing such information as the Secretary may
require, including—

“(1) a description of the activities that the
State will carry out using amounts received under
the grant;

“(2) a designation of an appropriate State
agency to administer amounts received under the
grant; and

“(3) a description of the steps to be taken to
ensure that the funds are distributed in accordance
with subsection (e).

“(c) AMOUNT OF GRANT.—

“(1) IN GENERAL.—From the amounts avail-
able to carry out this section for a fiscal year, the
Secretary shall allot to each State an amount that
bears the same ratio to the amounts available as—

“(A) the average income of the State de-
rived from the production of tobacco during the
1997 through 1999 marketing years (as deter-
mined under paragraph (2)); bears to

“(B) the average income of all States de-
rived from the production of tobacco during the
1997 through 1999 marketing years.

“(2) TOBACCO INCOME.—For the 1997 through
1999 marketing years, the Secretary shall determine

1 the amount of income derived from the production
 2 of tobacco in each State and in all States.

3 “(d) PAYMENTS.—

4 “(1) IN GENERAL.—A State that has an appli-
 5 cation approved by the Secretary under subsection
 6 (b) shall be entitled to a payment under this section
 7 in an amount that is equal to its allotment under
 8 subsection (c).

9 “(2) FORM OF PAYMENTS.—The Secretary may
 10 make payments under this section to a State in in-
 11 stallments, and in advance or by way of reimburse-
 12 ment, with necessary adjustments on account of
 13 overpayments or underpayments, as the Secretary
 14 may determine.

15 “(3) REALLOTMENTS.—Any portion of the al-
 16 lotment of a State under subsection (c) that the Sec-
 17 retary determines will not be used to carry out this
 18 section in accordance with an approved State appli-
 19 cation required under subsection (b) shall be reallocot-
 20 ted by the Secretary to other States in proportion to
 21 the original allotments to the other States.

22 “(e) USE AND DISTRIBUTION OF FUNDS.—

23 “(1) IN GENERAL.—Amounts received by a
 24 State under this section shall be used to carry out
 25 economic development activities, including—

1 “(A) rural business enterprise activities de-
2 scribed in subsections (c) and (e) of section
3 310B of the Consolidated Farm and Rural De-
4 velopment Act (7 U.S.C. 1932);

5 “(B) down payment loan assistance pro-
6 grams that are similar to the program described
7 in section 310E of the Consolidated Farm and
8 Rural Development Act (7 U.S.C. 1935);

9 “(C) activities designed to help create pro-
10 ductive farm or off-farm employment in rural
11 areas to provide a more viable economic base
12 and enhance opportunities for improved in-
13 comes, living standards, and contributions by
14 rural individuals to the economic and social de-
15 velopment of tobacco communities;

16 “(D) activities that expand existing infra-
17 structure, facilities, and services to capitalize on
18 opportunities to diversify economies in tobacco
19 communities and that support the development
20 of new industries or commercial ventures;

21 “(E) activities by agricultural organiza-
22 tions that provide assistance directly to active
23 growers to assist in developing other agricul-
24 tural activities that supplement tobacco-pro-
25 ducing activities;

1 “(F) initiatives designed to create or ex-
 2 pand locally owned value-added processing and
 3 marketing operations in tobacco communities;
 4 and

5 “(G) technical assistance activities by per-
 6 sons to support farmer-owned enterprises, or
 7 agriculture-based rural development enterprises,
 8 of the type described in section 252 or 253 of
 9 the Trade Act of 1974 (19 U.S.C. 2342, 2343).

10 “(2) TOBACCO-GROWING COUNTIES.—Assist-
 11 ance may be provided by a State under this section
 12 only to assist a county in the State that has been
 13 determined by the Secretary to have in excess of
 14 \$100,000 in income derived from the production of
 15 tobacco during 1 or more of the 1997 through 1999
 16 marketing years.

17 “(3) DISTRIBUTION.—

18 “(A) ECONOMIC DEVELOPMENT ACTIVI-
 19 TIES.—Not less than 20 percent of the amounts
 20 received by a State under this section shall be
 21 used to carry out—

22 “(i) economic development activities
 23 described in subparagraph (E) or (F) of
 24 paragraph (1); or

1 “(ii) agriculture-based rural develop-
 2 ment activities described in paragraph
 3 (1)(G).

4 “(B) TECHNICAL ASSISTANCE ACTIVI-
 5 TIES.—Not less than 4 percent of the amounts
 6 received by a State under this section shall be
 7 used to carry out technical assistance activities
 8 described in paragraph (1)(G).

9 “(C) TOBACCO-GROWING COUNTIES.—To
 10 be eligible to receive payments under this sec-
 11 tion, a State shall demonstrate to the Secretary
 12 that funding will be provided, during each 5-
 13 year period for which funding is provided under
 14 this section, for activities in each county in the
 15 State that has been determined under para-
 16 graph (2) to have in excess of \$100,000 in in-
 17 come derived from the production of tobacco, in
 18 amounts that are at least equal to the product
 19 obtained by multiplying—

20 “(i) the ratio that the tobacco produc-
 21 tion income in the county determined
 22 under paragraph (2) bears to the total to-
 23 bacco production income for the State de-
 24 termined under subsection (c); by

1 “(ii) 50 percent of the total amounts
2 received by a State under this section dur-
3 ing the 5-year period.

4 “(f) PREFERENCES IN HIRING.—A State may re-
5 quire recipients of funds under this section to provide a
6 preference in employment to—

7 “(1) an individual who—

8 “(A) during the 2002 calendar year, was
9 employed in the manufacture, processing, or
10 warehousing of tobacco or tobacco products, or
11 resided, in a county described in subsection
12 (e)(2); and

13 “(B) is eligible for assistance under the to-
14 bacco worker transition program established
15 under section 401 of the Tobacco-Dependent
16 Communities Assistance Act of 2002; or

17 “(2) an individual who—

18 “(A) during the 2002 marketing year, car-
19 ried out tobacco quota or relevant tobacco pro-
20 duction activities in a county described in sub-
21 section (e)(2);

22 “(B) is eligible for a farmer opportunity
23 grant under subpart 9 of part A of title IV of
24 the Higher Education Act of 1965; and

1 “(C) has successfully completed a course of
2 study at an institution of higher education.”.

3 **TITLE VI—IMMUNITY**

4 **SEC. 601. GENERAL IMMUNITY FOR TOBACCO PRODUCERS** 5 **AND WAREHOUSERS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of this Act, an active tobacco producer, tobacco-re-
8 lated growers association, or tobacco warehouse owner or
9 employee may not be subject to liability in any Federal
10 or State court for any cause of action resulting from the
11 failure of any tobacco product manufacturer, distributor,
12 or retailer to comply with national tobacco settlement leg-
13 islation.

14 (b) FDA ENTRY ONTO FARMS.—An officer or em-
15 ployee of the Food and Drug Administration shall not
16 have any authority to enter onto a farm owned by a pro-
17 ducer of leaf tobacco without the written consent of the
18 producer.

19 **TITLE VII—ADMINISTRATION**

20 **SEC. 701. MARKETING YEARS.**

21 Except as otherwise provided in this Act, this Act and
22 the amendments made by this Act apply beginning with
23 the marketing year for the 2004 crop of each kind of to-
24 bacco.

